

REMARKS

Procedural Processing

Applicant received notice of Non-Compliant Amendment, dated October 22, 2003, regarding the previous amendment submission. Particularly, the prior amendment failed to list claims 28 and 29. The present amendment includes a listing of claims 28 and 29 and is therefore compliant. Further, the previous submission accompanied an RCE so that this submission is being timely filed.

Substantive Argumentation

The following remarks are responsive to the office action of April 23, 2003, the interview of July 16, 2003, and the interview summary of July 28, 2003. Reconsideration of the application is respectfully requested.

In the office action, the Examiner objected to the drawings. Applicant has provided new drawings to replace the present drawings and obviate the objection.

In the office action, the Examiner rejected claims 1-4, 6-9, 22-25 and 27 under 35 USC 102(b) as being anticipated by Don Best Sports. The Examiner rejected claims 5, 10, 21, 26 and 29 under 35 USC 103(a) as being unpatentable over Don Best Sports and further in view of Zinda, et al, US Patent No. 6,393,437.

Applicant expresses appreciation to the Examiner and the Examiner's Supervisor for conducting the referenced

interview. In the interview, Applicant and Examiner discussed that a sport betting program that does not utilize a web browser, and rather downloads and stores the relevant information on the user's computer, is inapposite to the purpose of the principle prior art reference, Don Best ("Don Best I"), as indicated in the declaration, dated December 26, 2003, provided by Dana Corbo, inventor of Don Best I (the "Declaration").

During the interview, the Examiner concluded in the interview that amending independent claims 1, 6, 11, 22 and 27 to include these limitations differentiates these claims over Don Best I, and subject to a further search, renders the claims patentable. Applicant relied on this conclusion and amended the claims, herein, to include these limitations.

In the interview summary, the Examiner stated that a conclusion as to the patentability of the claims was not reached. The Examiner also stated that there was an agreement to the extent that the claims would overcome a rejection under 35 USC 102 if amended to include the recited differences, but that a rejection under 35 USC 103 was still a possibility. However, Applicant respectfully disagrees with the Examiner's assertions as to a rejection under 35 USC 103.

A rejection under 35 USC 103 is inappropriate where the primary reference being modified is left unsatisfactory for its intended purpose. *MPEP 2143.01(citing In re Gordon, 733 F.2d 900 (Fed. Cir. 1984))*. Don Best I, as illustrated in the Declaration, has the intended purpose of providing

anonymity to subscribing sports books by (1) allowing the books to access the system via a website and (2) leaving no trace of any usage of the system in the computer which is used to access the system. The amended independent claims, as discussed in the interview, recite that the user must access the system through a computer, not a website, where the computer stores all of the information about occurrences in connection with the odds. This modification is against the intended purpose of Don Best I, so that using Don Best I in a rejection against the claims under 35 USC 103 is inappropriate.

In view of the above, Applicant asserts that the claims are patentable over the prior art and respectfully requests a notice of allowance.

Please charge any additional fees to Deposit Account No. 06-0515.

Respectfully submitted,



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